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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,602	03/23/2001	Mark Lynn Jenson	1327.010US1	6174

40064 7590 05/23/2005

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EXAMINER
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CREPEAU, JONATHAN

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/816,602

**Applicant(s)**

JENSON ET AL.

**Examiner**

Jonathan S. Crepeau

**Art Unit**

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11,20-29,54-80 and 89-121 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11,20-29,54-58,64-80,89 and 96-121 is/are allowed.
- 6) ☒ Claim(s) 59,60 and 90-95 is/are rejected.
- 7) ☒ Claim(s) 61-63 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/15/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action addresses claims 11, 20-29, 54-80, 89-95, and newly added claims 96-121. Applicant's remarks with regard to the 112 first paragraph rejection of claim 78 are persuasive and the rejection is withdrawn. Claims 11, 20-29, 54-58, 64-80, 89, and 96-121 are allowed and claims 61-63 and 93 contain allowable subject matter. Claims 90-95 remain rejected under 35 U.S.C. 112, second paragraph, and claims 59, 60, 90-92, 94, and 95 remain rejected under 35 USC 102. It appears that Applicant, as indicated in his remarks, intended to address these rejections but did not do so. Accordingly, this action is made final.

### ***Information Disclosure Statement***

2. The last reference on the IDS filed on 3/15/05 has not been considered because no date has been supplied. If a publication or retrieval date is supplied, the reference will be made of record.

Additionally, in remarks filed on March 15, 2005, Applicant states that an initialed 1449 filed on 12/15/2003 seems to be missing. However, the sheet is present in the file wrapper and can be accessed electronically by viewing the document labeled "1449" dated 2/24/04.

***Claim Suggestions***

3. In claims 98 and 105, “the outer shell” lacks proper antecedent basis; in claim 99, “the first shell” lacks proper antecedent basis. Appropriate correction is suggested but not required.

***Claim Rejections - 35 USC § 112***

4. Claims 90-95 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 90-95, the word "means" is preceded by the word(s) "thin-film battery" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). As such, this raises a §112 second paragraph issue. Furthermore, “the thin film battery means” in these claims lacks proper antecedent basis.

***Claim Rejections - 35 USC § 102***

5. Claims 59, 60, 90-92, 94, and 95 are rejected under 35 U.S.C. 102(b) as being anticipated by Lew et al (U.S. Patent 5,644,207). The reference is directed to an integrated power source having solar cells laminated onto a solid-state polymer battery (see abstract). The power source is integral to the enclosure of a variety of electrically-powered devices, such as houses, automobiles, phones, laptops, etc (see the Figures of Lew). Some of the enclosures (roofs of houses, automobiles, laptops), have a convex outer shape and a concave inner shape (see Figs. 4B, 5, 7B, 12, and 13). The “first shell” of the claims may be considered to be either layer 112 or 116 in Figure 12, whereby the battery layer is either disposed on the interior or exterior of the “first shell.” Traces are formed on layer 116 for connection to an electrically powered device (see col. 4, lines 24 and 44). A protective layer (34) may be placed over the battery. As shown in Figure 5 and disclosed in column 5, line 45, the battery may comprise the entire housing of a laptop computer, which has two halves and a hinge.

Thus, the instant claims are anticipated.

***Allowable Subject Matter***

6. Claims 11, 20-29, 54-58, 64-80, 89, and 96-121 are allowed.
7. Claim 93 is rejected under 35 USC §112, second paragraph but contains allowable subject matter.

8. Claims 61-63 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

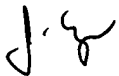
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Crepeau whose telephone number is (571) 272-1299. The examiner can normally be reached Monday-Friday from 9:30 AM - 6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr, can be reached at (571) 272-1414. The phone number for the organization where this application or proceeding is assigned is (571) 272-1700. Documents may be faxed to the central fax server at (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jonathan Crepeau  
Primary Examiner  
Art Unit 1746  
May 19, 2005